



Knuckles Komosinski & Elliott LLP

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December 2, 2015

VIA ECF

Chief Judge Cecelia G. Morris
U.S. Bankruptcy Court, S.D.N.Y.
355 Main Street
Poughkeepsie, NY 12601-3315

Re: In re: Peter S. Solicito
Case No: 15-35595-CGM

Dear Chief Judge Morris:

We represent Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, not individually but as trustee for Carlsbad Funding Mortgage Trust c/o Rushmore Loan Management Services, LLC, a secured creditor in the above referenced matter.

Please allow this letter to serve as a Loss Mitigation update and detailed denial letter.

As indicated at the Loss Mitigation Status Hearing on October 20, 2015, the debtor has been denied for HAMP Tier I, HAMP Tier II, and in-house modifications.

Below please find the detailed figures for the denials:

- HAMP Tier I and II

- Does not qualify for HAMP Tier 1 & Tier 2 due to Post Mod DTI > 42%.
- Income: Gross \$2,105.78/month; Net \$1,747.95/month.
- Previous Modification Effective 05/01/10; P&I \$806.64; IR 3.000% Step Rate with Max IR 5.500%; Maturity Date 09/01/45; Previous Deferred Balance Amount \$13,287.75.
- Proposed PITI (Principal, Interest, Taxes, and Insurance) payment under HAMP Tier 2: PI (Principal and Interest) \$780.33 + TI (Taxes and Insurance) \$531.39 = \$1,311.72 PITI {Modified Unpaid Principal Balance \$205,389.12, Interest Rate at 3.375% (Fixed), Remaining Term: 480 months, Deferred Principal \$88,023.91}.
- Ineligible for HAMP Tier 1 due to Excessive Forbearance.
- Ineligible for HAMP Tier 2 due to Post-Mod DTI (Debt-to-Income) 62.29% ($\$1,311.72 / \$2,105.78 = 0.6229 * 100 = 62.29\%$) exceeds Max 42% threshold.

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Based on the above, the Debtor is not eligible for a HAMP Tier I or Tier II loan modification.

- **In-house**

- Income: Gross \$2,105.78/month; N \$1,747.95/month.
- Expenses: \$1,668.71/month.
- Terms Evaluated: Down Payment \$0.00; 6 month trial payment plan at \$1,460.00/month. Defer \$100,141.98 to Modified UPB: \$180,000.00 (previous deferred balance to remain deferred).
- Hold Interest Rate: 5.500% (Fixed).
- Modified Terms: 480 months; PI (Principal and Interest): \$928.39, TI (Taxes and Insurance): \$514.25, PITI (Principal, Interest, Taxes, and Insurance) of \$1,442.64.
- Post-Mod DTI (Debt-to-Income) 68.51% ($\$1,442.64 / \$2,105.78 = .6851 * 100 = 68.51\%$).
- NDI (Net Disposable Income) is -78% ($\$1,442.64 + \$1,668.71 = \$3,111.35 / \$1,747.95 = 1.7799 * 100 = 178\% = -78\%$). Total expenses with modified payment exceed by 78% or \$1,363.40.

Based on the above, the Debtor is not eligible for an in-house modification.

As the Debtor is not eligible for any modification options, the undersigned humbly asks that Your Honor terminate loss mitigation in the instant matter.

Should you have any questions, please do not hesitate to contact me.

Respectfully,

Knuckles, Komosinski & Elliott, LLP

Mark R. Knuckles, Esq.

Counsel for Rushmore Loan Management
Services LLC

cc: Andrea B. Malin, Esq. (via ECF)
Jeffrey L. Sapir, Esq. (via ECF)



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*HP240 N111

October 19, 2015

Peter S Solicito
Sarah Solicito
1238 Un Ave
Newburgh, NY 12550
*

Loan No.:
Property Address: 1238 Union Ave
Newburgh NY 12550

Dear Peter S Solicito :
Dear Sarah Solicito :

The request to have your mortgage loan reviewed for a possible modification under the government's HAMP program was carefully considered. We are unable to offer you a Home Affordable Modification because your loan did not meet one or more of the eligibility criteria of the Home Affordable Modification Program.

1. Ineligible Mortgage

- _ You did not obtain your loan on or before January 1, 2009.
- _ Your loan with us is not a first lien mortgage.
- _ The current unpaid principal balance on your loan is higher than the program limit. (\$729,750 for a one unit property, \$934,200 for a two unit property, \$1,129,250 for a three unit property and \$1,403,400 for a four unit property).
- _ Your mortgage loan has been charged off and you have been released from liability for repayment.

2. Ineligible Borrower

- _ You or a co-borrower own in excess of five single family properties (exclusive of principal residence).
- _ The borrower on this loan is not a natural person.

3. Ineligible Property

- _ Your property has been condemned or is in such poor physical condition that it is uninhabitable.
- _ Your property has more than four dwelling units.
- _ Your property fails to satisfy the criteria for a rental property to receive a Home Affordable Modification because:
 - _ Your property is a second home.

HP240 020 1SG





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- _ Your property is rented on a seasonal basis and not on a year-round basis.
- _ You failed to make the Rental Property Certification included in the Request for Mortgage Assistance.

4. Investor Guarantor Not Participating

- _ We service your loan on behalf of an investor or group of investors that has not given us the contractual authority to modify your loan under the Home Affordable Modification Program.
- _ Your loan is insured by a private mortgage insurance company that has not approved a modification under the Home Affordable Modification Program.
- _ Your loan is guaranteed and the guarantor has not approved a modification under the Home Affordable Modification Program.

5. Court/Public Official Declined

- _ The proposed terms were not approved by the court with authority to direct action of this account. You may wish to contact your counsel or trustee to discuss this decision.

6. Default Not Imminent/Default Status not Eligible

- _ You have not documented a financial hardship that has reduced your income or increased your expenses, thereby impacting your ability to pay your mortgage as agreed.
- _ You have sufficient net income to pay your current mortgage payment.
- _ You have the ability to pay your current mortgage payment using cash reserves or other assets.
- _ You have not missed two or more mortgage payments. (HAMP Tier 2 Only)

7. Previous HAMP Modification(s)

- _ Your loan on the related property has received the maximum number of modifications permitted under the Home Affordable Modification Program.
- _ You or a co-borrower have received the maximum number of modifications permitted under the Home Affordable Modification Program.

HP241 010 1SG





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8. Request Incomplete

- ☐ You did not provide us with the documents we requested.
A notice which listed the specific documents we needed and the time frames required to provide them was sent to you.
- ☐ You did not provide us with an Initial Package.

9. Trial Plan Default

- ☐ You did not make the required Trial Period Plan payments.

10. Payment Increase

- ☐ In performing our underwriting of a potential modification, the modified principal and interest payment under HAMP Tier 2 is greater than the pre-modification principal and interest payment in effect.

11. Post Modification DTI Outside of Acceptable Range

- ☒ In performing our underwriting of a potential modification, we determined that the proposed modified monthly payment which we could offer you, which includes a modified monthly principal and interest payment on your first lien mortgage loan plus property taxes, hazard insurance premiums, and homeowners dues (if any) was outside the required range of 25% - 42% of your gross income (your income before taxes and other deductions) which we verified as \$2,105.78 . Your modified monthly housing expense must be equal to or greater than 25% and equal to and less than 42% of your gross monthly income in order for you to be eligible for HAMP. If you believe the verified income figure we have is incorrect, please contact us at the number provided below.

12. Loan Paid off or Reinstated

- ☐ Your loan was paid in full on .
- ☐ Your loan was reinstated on and you no longer appear to be in need of modification. If you feel that you are at risk of default, please contact us to discuss your eligibility and qualification for a Home Affordable Modification.

13. Offer Not Accepted by Borrower/Request Withdrawn

- ☐ After being offered a Trial Period Plan or Home Affordable Modification you notified us on that you did not wish to accept the offer.

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- After initially asking to be considered for a Home Affordable Modification you withdrew that request on .

14. Dodd-Frank Certification

- You did not meet the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

15. Application Discrepancy

- We are unable to offer a Home Affordable Modification because:

16. Negative NPV

- The Home Affordable Modification Program requires a calculation of the net present value (NPV) of a modification using a formula developed by the Department of the Treasury. The NPV calculation requires us to input certain financial information about your income and your loan including the factors listed on the enclosed Negative NPV Notice. When combined with other data in the Treasury model, these inputs estimate the cash flow the investor (owner) of your loan is likely to receive if the loan is modified and the investor's cash flow if the loan is not modified. Based on the NPV results, the owner of your loan has not approved a modification. Please see the enclosed Negative NPV Notice for additional NPV information.

You have 30 calendar days from the date of this notice to contact Rushmore Loan Management Services LLC to appeal the reason for non-approval for a HAMP modification or to discuss alternative loss mitigation options that may be available to you such as a short sale or deed in lieu. Your loan may be referred to foreclosure during this time, or any pending foreclosure action may continue. However, no foreclosure sale will be conducted and you will not lose your home during this 30-day period (or any longer period required for us to review supplemental material you may provide in response to this Notice).

HP243 014 1SG





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October 19, 2015

Peter S Solicito
Sarah Solicito
1238 Un Ave
Newburgh, NY 12550
*

Loan No.:
Property Address: 1238 Union Ave
Newburgh NY 12550

Re: Loan Modification Request-Notice of Action Taken

Dear Peter S Solicito :
Dear Sarah Solicito :

Thank you for your recent request for a loan modification. Your request was carefully considered but we regret to inform you that we are unable to offer you a loan modification at this time. Below is a list of factors that are considered when reviewing a request for a loan modification. Any item marked with an X next to it represents a reason for our denial of your request for the loan modification:

Your monthly Income amount of \$ 2,105.78 :
XX Is insufficient to sustain payments under any available loan modification program.
Is sufficient to sustain current payments under the Note and Mortgage without modification.
Could not be verified.

Your Employment:
Is not sufficient in length to qualify.
Could not be verified.

Your Credit History:
Could not be verified.
Reveals that current obligations are excessive in relation to income.

Other:
We do not offer a loan modification on the terms requested.
The Owner of your loan is

Home Retention Package:
You failed to return the executed agreement, and/or the initial payment in a timely manner.





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Down Payment:

You did not provide proof of the good faith down payment.
The amount of good faith down payment is insufficient to
offer a loan modification.

The Property value used in making this determination was \$.

If you so choose, you have 30 days from the date of this letter to
appeal this decision. If you wish to appeal, please send the written
request to your Single Point of Contact STEVIE GLOWACZ at:

Rushmore Loan Management Services LLC
15480 Laguna Canyon Dr., Suite 100
Irvine, CA 92618

If Rushmore needs additional documentation in order to consider your
appeal, we will request the documents from you.

There are additional alternatives that we may be able to assist you with
such as possible forbearance, short sale, or deed-in-lieu of foreclosure.

Please contact your Single Point of Contact STEVIE GLOWACZ
at 469 458 5915 if you would like to discuss these additional alternatives
to foreclosure.

The consumer reporting agencies we contacted that provided information
influencing our decision in whole or in part were:

Equifax Credit Information	TransUnion	Innovis
P.O. Box 740241	P.O. Box 1000	P.O. Box 1689
Atlanta, GA 30374	Chester, PA 19022	Pittsburgh, PA 15230-1689
1-877-576-5734	1-800-680-7289	Attn:Consumer Assistance

The reporting agencies played no part in our decision and are unable to
supply specific reasons why we have denied a loan modification to you.
You do, however, have a right under the Fair Credit Reporting Act to
know the information contained in your credit file. You also have the
right to a free copy of your report from the reporting agencies, if you
request it no later than 60 days after you receive this notice. In
addition, if you find that any information contained in the report you
receive is inaccurate or incomplete, you have the right to dispute the
matter with the reporting agencies. Any questions regarding such
information should be directed to the consumer reporting agencies.

LM243 062 BP3





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(Check if applicable) Our credit decision was based in whole or in part on information obtained from an affiliate or outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, no later than 60 days after you receive this notice, for disclosure of the nature of this information.

Sincerely,

Loss Mitigation Department

If you have any questions regarding this letter, you should contact us at Rushmore Loan Management Services LLC, 15480 Laguna Canyon Road, Suite 100, Irvine, CA 92618 or toll free at 1-888-504-7300 Monday through Thursday between the hours of 6:00 a.m. to 7:00 p.m., Friday 6:00 a.m. to 6:00 p.m. Pacific Time.

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact: United States Department of Housing and Urban Development (HUD), toll free 1-888-995-HOPE(4673).

Please read important Legal Information on the next page.

LM244 010 BP3



STATE SPECIFIC NOTICES

The following notice applies to California residents only:

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8:00 a.m. or after 9:00 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP (382-4357) or www.ftc.gov.

The following notice applies to Colorado residents only:

Please note: A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE www.coloradoattorneygeneral.gov/. Please be advised that you can reach the Colorado Foreclosure Hotline at 1-877-601-HOPE (601-4673).

Local Rushmore Loan Management Services LLC Agent for Colorado Residents:

Irvin Borenstein
13111 E. Briarwood Ave. Ste #340
Centennial, CO 80112
Phone: 303-309-3839.

The following notice applies to Massachusetts residents only:

Notice of IMPORTANT RIGHTS: You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten (10) days unless you provide written confirmation of the request postmarked or delivered within seven (7) days of such request. You may terminate this request by writing to the creditor.

The following notice applies to New York residents only:

If you believe the loss mitigation request has been wrongly denied, you may file a complaint with the New York State Department of Financial Services at 1-800-342-3736 or www.dfs.ny.gov

The following notice applies to North Carolina residents only:

If you believe the loss mitigation request has been wrongly denied, you may file a complaint with the North Carolina Office of the Commissioner of Banks website, www.nccob.gov

ADDITIONAL NOTICES

Rushmore Loan Management Services LLC is a Debt Collector, who is attempting to collect a debt. Any information obtained will be used for that purpose. However, if you are in Bankruptcy or received a Bankruptcy Discharge of this debt, this letter is being sent for informational purposes only, is not an attempt to collect a debt and does not constitute a notice of personal liability with respect to the debt.